

DEPARTMENT OF FOOD AND AGRICULTURE
FINAL STATEMENT OF REASONS
Title 3: California Code of Regulations
Division 4, Chapter 2, Subchapter 5
Rice Identity Preservation

PUBLIC HEARING

No hearing was scheduled by the Department, or requested by the public regarding this proposed regulation.

SECTIONS AFFECTED

The proposed Rice Identity Preservation Regulation adopts section 2852.5, and amends the following sections of Title 3, Division 4, Chapter 2, Subchapter 5 of the California Code of Regulations: 2850, 2851, 2852, 2853, 2854, 2855, 2856.

LOCAL MANDATES DETERMINATION

The proposed regulations do not impose any mandate on local agencies or school districts.

UPDATED INFORMATIVE DIGEST

Pursuant to Government Code section 11346.9, subdivision (b) There have been no revisions in applicable laws or to the effect of the proposed regulations from those described in the Informative Digest/Policy Statement Overview published in the California Regulatory Notice Register on May 19, 2017 [Notice File No. Z-2017-0509-08, Register 2017, No. 20-Z].

UPDATED INFORMATION FROM THE INITIAL STATEMENT OF REASONS

From May 19, 2017 to July 3, 2017, the Department published a 45-day notice of The Regular Rulemaking package which included the Initial Statement of Reasons, Text of Regulation, Notice of Proposed Rulemaking, Form Std. 399: Economic and Fiscal Impact Report, and Form 400.

Original regulation submission was updated as a result of public comment by the Department of Finance as follows:

- 1) Updated/amended Form 399 based on findings in Department of Finance requested Economic Impact Analysis.
- 2) Economic Impact Analysis Addendum to Form 399

Changes to the originally proposed Form 399 further clarified the monetary value of the yield loss recouped by implementing this rice identity preservation regulation in already identified Weedy Rice infested areas. This analysis identified the potential monetary value of avoided yield loss between \$600,000 and \$12,000,000. This information had no significant effect on the proposed regulations; it simply provided added clarification of the monetary value of potential avoided impact of weedy rice as a result of implementing these regulations. An updated Form 399 was submitted for a 15-day public

comment period beginning July 25, and ended August 8th, 2017. Following this public comment period, there were no comments and therefore no modifications to the updated Form 399 or the Economic Impact Analysis Addendum.

SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE 45-DAY NOTICE PERIOD OF MAY 19, 2017 TO JULY 3, 2017

Summary of Comments Received from the California Department of Finance

Comment No. 1.1: The Department of Finance inquired during the initial 45-Day comment period regarding adding the std. 399 to also include an analysis of the potential monetary value of the potential yield loss recouped in already identified affected areas by implementing these regulations. The Department of Finance felt that CDFA's original std. 399 economic analyses was based solely on the cost for rice producers to comply with this seed requirement and ought to include a benefit estimate of the avoided yield loss due to the implementation of the intended regulation. To address this missing element, they suggested that CDFA calculate the monetary value of avoided yield loss by using the following formula:

$$YL=[(AL * PL * y)/100]*price$$

Where:

- YL is monetary value of the yield loss recouped by implementing the regulation (\$).
- AL is the size of affected land.
- PL is the percentage yield loss assumed.
- y is the yield of rice per acre accounting for unit conversion to hundred weight. The Department was requested to assume what the average yield of an acre used to produce rice could be.
- price; spot price.

Response: The California Department of Food and Agriculture agreed that the stated information was missing and proceeded to complete an economic analysis which was submitted to the Department of Finance. This analysis identified the potential monetary value in avoided yield loss to be between \$600,000 to \$12,000,000 recouped by implementing these weedy red rice regulations. This information had no significant effect on the proposed regulations; it simply provided additional clarification of potential avoided impact. This clarification caused the std. 399 to change the estimated impact from \$10 million to a range between \$10 and \$25 million. Because the impact is not over \$50 million, this is still considered an insignificant change and has no substantial effect on the regulation package, only added clarification of potential monetary avoided yield loss.

The analysis allowed for added clarity on estimated benefits of the regulation which include among others the health and welfare of California residents, worker safety and the states environment. Additionally, std. 399 summarized total statewide benefit from the weedy rice regulations to be changed from \$10 million to \$12 million.

NO COMMENTS WERE RECEIVED DURING THE NOTICE PERIOD IN WHICH THE TEXT WAS AVAILABLE TO THE PUBLIC JULY 25, 2017 TO AUGUST 9, 2017

ALTERNATIVES DETERMINATION

Pursuant to Government Code section 11346.9(a)(5), The Department has determined that no alternative would be:

- 1) More effective in carrying out the purpose for which the regulation is proposed, or,
- 2) Would be as effective and less burdensome to affected private persons than the proposed regulation, or,
- 3) Would be more cost effective to affected private persons and equally effective in implementing the statutory policy.

These determinations are based upon the statement of benefits as articulated in the informative digest/policy statement overview.

ECONOMIC IMPACT ON SMALL BUSINESS

No commenter proposed an alternative to lessen any adverse economic impact on small businesses.

CONCLUSION

The proposed regulations support the Food and Agricultural Code's purpose in protecting the California rice industry by preventing further infestation of weedy rice by requiring all California rice farmers plant uncontaminated seed. The proposed regulations prohibit the sale of farm saved seed and require rice producers to plant certified seed or seed that has been reviewed by a third party quality assurance program, beginning January 1, 2019.

The proposed regulations also require that rice producers, prior to use, inspect rice planting and harvesting equipment that has been used in other rice producing states, for the presence of weedy rice. Additionally, having addressed economic questions from the Department of Finance, the proposed regulations will allow California Rice Producers to avoid in monetary value anywhere from \$600,000 to \$12,000,000 in potential yield loss by implementing these weedy rice regulations.

The eradication and prevention of further infestation of weedy rice benefits the California rice industry provides for economic benefits to the people of this state including possible job creation opportunities and a positive impact to the health and general welfare of the people of California. The Department concurs that these regulations are effective in carrying out the purpose for which the regulation is proposed, is less burdensome to affected private persons than other approaches and would be more cost effective to affected private persons and equally effective in implementing the statutory policy. It is the Department's intention to support these regulations and agree that they best meet the spirit and intent of the governing statute in the Food and Agricultural Code and will best meet the needs and interests of the Rice industry and consuming public.